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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,064	03/11/2002	Hanns R. Misiak	ICC-211/PCT/US	8523

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Loctite Corporation
Legal Department
1001 Trout Brook Crossing
Rocky Hill, CT 06067

EXAMINER

BERMAN, SUSAN W

ART UNIT	PAPER NUMBER
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1711

DATE MAILED: 10/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/088,064	Applicant(s) MISIAK, HANNS R.	
	Examiner Susan W Berman	Art Unit 1711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____. | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1: it isn't clear what is meant by a "photoinitiated radical generating component" or how this component is distinguished from a "photoinitiator component" that is a pyrylium salt. Component (b) and component (c) in claim 1 should be clearly differentiated one from the other. The components set forth in claims 5-7 are known free radical generating photoinitiators. Claim 1 is indefinite because, in the definition of (c), the phrase "selected from the compounds within the following structure" does not clearly set forth what compounds are intended to be claimed. What is meant by "within" the following structure? If applicant intends to claim only some species of compounds having the structure set forth, the structures intended should be clearly set forth. If applicant intends to claim all species having the structure set forth, it should be so stated. The symbol "X" is missing from the structure. Additionally, it is not clear what kinds of substitution are intended or what kinds of anions are suitable.

Claims 5-7 are indefinite because it is not clear whether applicant intends to claim a component "selected from the group" of compounds set forth or to claim a mixture of components including a compound selected from the group of compounds set forth and not limited to those compounds. Does applicant intend to recite a Markush group by reciting "component selected from the group consisting of ...and combinations thereof"? If so, it should be so stated.

Claim 8 fails to further limit claim 1 since the structure is already set forth in claim 1.

Claim 11 fails to clearly set forth the kinds of styrene derivatives or "(meth)acrylates" suitable as radical curing components. Are the "(meth)acrylates" monomers, oligomers, or polymers having (meth)acrylate functional groups?

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Claim 15, the word "objecting" in step (b) renders the method unclear.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 18 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 07699721. EP '721 discloses compositions comprising a cyanoacrylate monomer and a photoinitiator. With respect to claim 20, cleavage-type photoinitiators, including α -haloacetophenones, aromatic carbonyl compounds, 2,2-azobis(2-methylbutyronitrile, a peroxy compound, are disclosed on page 10. The cleavage-type photoinitiators taught meet the definitions of both components (b) and (c) set forth in instant claim 20. Alternatively, the ferrocene initiators taught by EP '721 also are known as photoinitiators in the art. Thus claim 20 is anticipated by EP '721. EP '721 teaches photocuring the disclosed compositions, thus EP '721 discloses a reaction product that would be expected to correspond to the reaction product set forth in claim 18. The reason is that the polymerized cyanoacrylate monomer reaction product would be expected to be the same when polymerized in the presence of the initiators taught by EP '721 or in the presence of a pyrylium salt, as set forth in instant claim 1, in the absence of evidence to the contrary.

Claims 18 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Wojciak et al (5,922,783). Wojciak et al disclose compositions comprising a cyanoacrylate monomer and a photoinitiator. With respect to claim 20, aromatic carbonyl photoinitiators are disclosed from column 4, line 41, to column 5, line 15. The photoinitiators taught meet the definitions of both components (b) and

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(c) set forth in instant claim 20. Alternatively, the metallocene initiators taught by Wojciak also are known as photoinitiators in the art. Thus claim 20 is anticipated by Wojciak et al. Wojciak et al teach photocuring the disclosed compositions, thus Wojciak et al disclose a reaction product that would be expected to correspond to the reaction product set forth in claim 18. The reason is that the polymerized cyanoacrylate monomer reaction product would be expected to be the same when polymerized in the presence of the initiators taught by Wojciak et al or in the presence of a pyrylium salt, as set forth in instant claim 1, in the absence of evidence to the contrary.

Claims 18 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Irving et al (4,604,344). Irving et al disclose compositions comprising a cyanoacrylate monomer and a photoinitiator. With respect to claim 20, peroxides, hydroperoxides and aromatic carbonyl photoinitiators are disclosed in column 13, lines 6- 17. The photoinitiators taught meet the definitions of both components (b) and (c) set forth in instant claim 20, thus claim 20 is anticipated by Irving et al. Irving et al teach photocuring the disclosed compositions, thus Irving et al disclose a reaction product that would be expected to correspond to the reaction product set forth in claim 18. The reason is that the polymerized cyanoacrylate monomer reaction product would be expected to be the same when polymerized in the presence of the initiators taught by Irving et al or in the presence of a pyrylium salt, as set forth in instant claim 1, in the absence of evidence to the contrary.

Allowable Subject Matter

Claim 1 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

Claims 2-7, 9-17 and 19 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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Information Disclosure Statement

The prior art submitted by applicant has been reviewed. However, the Examiner did not receive a PTOL form 1449. Applicant is requested to resubmit form 1449 listing the references submitted.

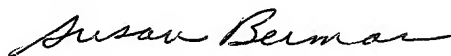
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Misiak et al (6,204,309) disclose a cyanoacrylate compositions comprising a pyrylium salt, but do not mention radical generating compounds.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan W Berman whose telephone number is 703 308 0040. The examiner can normally be reached on M-F 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on 703 308 2462. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 0661.



Susan W Berman
Primary Examiner
Art Unit 1711

SB
September 30, 2003